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A-5

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/362,631 07/21/99 MOSSO

R N19.12-0020

IM62/0829

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EXAMINER

WONG, E

ART UNIT	PAPER NUMBER
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1741

3

DATE MAILED:

08/29/00

Please find below and/or attached an Office communication concerning this application or proceeding.

**Commissioner of Patents and Trademarks**

<b>Office Action Summary</b>	Application No. 09/362,631	Applicant(s) Mosso et al.
	Examiner Edna Wong	Group Art Unit 1741

Responsive to communication(s) filed on \_\_\_\_\_.

This action is **FINAL**.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire ONE month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

#### Disposition of Claims

Claim(s) 1-51 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

Claim(s) \_\_\_\_\_ is/are allowed.

Claim(s) \_\_\_\_\_ is/are rejected.

Claim(s) \_\_\_\_\_ is/are objected to.

Claims 1-51 are subject to restriction or election requirement.

#### Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All  Some\*  None of the CERTIFIED copies of the priority documents have been received.

received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_.

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

#### Attachment(s)

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 1741

***Election/Restriction***

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I.     Claims **1-14, 20-27 and 42-51**, drawn to a particle production apparatus and system, classified in class 422, subclass 186.04.
- II.    Claims **15-19**, drawn to a method of producing a collection of nanoscale particles, classified in class 204, subclass 157.15.
- III.   Claims **28-30**, drawn to a method of producing a mixture of particles, classified in class 423, subclass 659.
- IV.    Claims **31-41**, drawn to a particle production apparatus and a method of selecting reaction conditions, classified in class 250, subclass 339.07.

The inventions are distinct, each from the other because of the following reasons: Inventions I-III and IV are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions have different modes of operation, different functions and different effects.

Group I are apparatuses requiring a particular reactant inlet and optical elements, a particle collection apparatus, a reactant delivery system and a plurality of gas shielding gas outlets.

Group II is a *light beam* method that does not use the apparatuses of Group I.

Art Unit: 1741

Group III is a *non-light beam* method that does not use the apparatuses of Group

I.

Group IV is a spectrometer apparatus and method that does not use the apparatuses of Group I.

The methods recited above do not require the particulars of the apparatuses in Group I. It would be a burden on the Examiner to search for the specifics for each Group when they are not even required for each Group.

The methods of Groups III-IV recited above contain steps that are methodically different from each other and are not required for each of the Groups. It would be a burden on the Examiner to search for the specifics for each Group when they are not even required for each Group.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and the searches required for Group I-IV are not required for each other, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject

Art Unit: 1741

matter, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(l).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edna Wong whose telephone number is (703) 308-3818.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathryn Gorgos, can be reached on (703) 308-3328. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3599.

Any inquiry of a general nature or relating to the status of this application or

Application/Control Number: 09/362,631

Page 5

Art Unit: 1741

proceeding should be directed to the receptionist whose telephone number is (703)  
308-0661.

*Edna Wong*  
EDNA WONG  
PATENT EXAMINER  
*TCP700*

EW  
August 26, 2000